complained of is terminated in favor of the defendant therein. *Daily v. Donath,* 100 Ill. App., 52; *Hays v. Blizzard,* 30 Ind., 457. The holding of the principal case would in many instances necessitate bringing the action for malicious prosecution while an appeal is pending, and, though the pending of an appeal might be a good reason for a stay of proceedings, *Dreyfus v. Aul,* 29 Neb., 191; *Rogers v. Mullins,* 20 Tex. Civ. App., 250; it seems useless to put the defendant in the alleged malicious prosecution to the expense of instituting proceedings, when by a subsequent decision of the Appellate Court he may lose the essential element of his action.

MASTER AND SERVANT—MASTER'S LIABILITY FOR INJURY TO SERVANT—RISKS ASSUMED.—H. D. WILLIAMS COOPERAGE CO. v. SAMS, 198 FED., 852.—*Held,* that a servant assumes only those extraordinary risks of his employment which he knows and appreciates or which are obvious, and not those which by the exercise of ordinary care, he should have known but did not.

The doctrine is well settled that a workman assumes the risks that are incidental to his employment. *Rummel v. Dilworth,* 131 Pa., 509. But it is recognized common law that a servant who has no knowledge, actual or constructive, of an extraordinary risk, is not chargeable with its assumption. *Labatt on Master and Servant,* Vol. 1, Sec. 274. But the servant is charged with knowledge if the danger is obvious. *Glenmont Lumber Co. v. Roy,* 126 Fed., 524. *Contra, Stiller v. Bohn Mfg. Co.,* 80 Minn., 1. And the master is not liable where knowledge of the danger is open alike to the master and servant and is incidental to the employment, *Murphy v. Edgar Zinc Co.,* 83 Kan., 627; except where the defect is discoverable only on strict investigation. *Miner v. Franklin County Tel. Co.,* 83 Vt., 311. In many States the liability is determined by statute, but there is a long line of cases that hold that a servant assumes not only such risks as would ordinarily be incidental to his employment, but also such as he could discover by the exercise of his opportunities for inspection. *Lehman v. VanNostrand,* 165 Mass., 233; *Perigo v. Chicago, etc., R. Co.,* 52 Iowa, 276. Or by the use of "ordinary care", *Sievers v. Peters Co.,* 151 Ind., 642; "reasonable care and skill", *W. U. Tel. Co. v. McMullen,* 58 N. J. L., 155; "ordinary observation or reasonable diligence", *Latremouville v. Bennington & R. R. Co.,* 63 Vt., 336. For a list of cases in point see 26 *Cyc.,* p. 1304, notes 17 and 20. In the view of the best authorities, the decision in the title case is too harsh on the master. The better view is that the servant must use some degree of care in any case.

NEGLIGENCE — DANGEROUS INSTRUMENTS — AUTOMOBILES. — PARKER V. WILSON, 60 So., (ALA.), 151.—*Held,* that automobiles are not to be classed with such highly dangerous agencies as dynamite or savage animals and are not to be regarded as dangerous *per se.*

The law takes notice that certain things are a source of extraordinary risk, and a man who exposes his neighbor to such risk is held liable for any consequent harm, not due to some cause beyond human foresight and